

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STEVE ROBERT DURAN,

Applicant,

v.

No. CV 10-743 JB/GBW

ERASMO BRAVO, et al.,

Respondents.

**ORDER**

This matter is before the Court on Plaintiff's Motions for Appointment of Counsel (*docs. 13, 15*) and his Motion for Extension of Time (*doc. 17*). For the reasons given below I will deny his motions for counsel and grant his requested extension.

As to the motions for counsel, "[Petitioner] does not have a Sixth Amendment right to appointed counsel in a federal habeas proceeding." *Archuleta v. LeMaster*, 37 F. App'x 391, 393 (10th Cir. 2002) (citing *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987)); *Parkhurst v. Shillinger*, 128 F.3d 1366, 1371 (10th Cir. 1997). Factors the Court weighs when considering a motion for appointment of counsel include "'the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims.'" *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)).

Merits of Litigant's Claims: A preliminary review of Petitioner's claims does not reveal any claims which appear hold substantial merit. While a full review may lead the Court to a different conclusion, this factor weighs against appointment of counsel at this time.

Nature of the Factual Issues Raised in the Claims: There is nothing in the record to suggest that Petitioner is not capable of investigating the factual issues he raises. This factor weighs against appointment of counsel.

Litigant's Ability to Present his Claims: Petitioner understands the issues in the case and appears to be representing himself in an intelligent and capable manner. *See Lucero v. Gunter*, 52 F.3d 874, 878 (10th Cir. 1995). This factor weighs against appointment of counsel.

Complexity of the Legal Issues Raised by the Claims: Petitioner has not made any claims which are unusually complex. This factor weighs against appointment of counsel.

Accordingly, the Court, having reviewed the Motions for Appointment of Counsel in light of these factors, determines that they should be and will be denied at this time.

Plaintiff also seeks an extension of time to respond to Defendants' Answer, which has been construed as a Motion for Summary Judgment. *See docs. 10, 12*. By the order dated September 20, 2010, Plaintiff was given until October 25, 2010 to respond to the Answer. *Doc. 12*. He now seeks an extension of time to file his response due to the constraints of his access to legal materials, among other reasons. *Id.* I find the motion well

taken and will grant it as follows:

IT IS ORDERED that Plaintiff's Motion for Extension (*doc. 17*) be GRANTED and Plaintiff's new response deadline will be set for **December 8, 2010**.

IT IS FURTHER ORDERED that Plaintiff's motions for appointment of counsel (*docs. 13, 15*) are DENIED at this time.

  
UNITED STATES MAGISTRATE JUDGE